

REMARKS

Claims 6, 8-14 and 19 are pending in the application. Claim 6 was rejected under 35 C.F.R. § 102(b) as being anticipated by U.S. Patent No. 4,634,006 to Yanase ("Yanase") and also under 35 C.F.R. § 102(B) by U.S. Patent No. 4,786,190, to Van Erden et al. ("Van Erden"). Claims 12 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yanase in view of U.S. Patent No. 3,905,477 to Graham ("Graham"). Claims 8-11 and 19 are indicated as being allowed. Claim 14 was objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Claim 6 has been cancelled herein. Accordingly, the rejection under 35 C.F.R. § 102(b) should be removed.

Claims 12 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yanase in view of U.S. Patent No. 3,905,477 to Graham ("Graham").

The present application includes a writing area formed integral with said bag by said first seal line joining said front and back *inboard of the bag perimeter* (emphasis added). This feature of the writing area is not shown or suggested by either Yanase or Graham alone or in combination. Yanase lacks a separate writing area. The writing area of Graham is not inboard of the bag perimeter, but in fact, as stated in the action, the writing area of Graham is "integrally connected to the bag by the seal".

Because the writing area of the present application is formed integral with the bag by the first seal line inboard of the bag perimeter, the seal and writing area defines a pour spout as set forth in dependent Claim 13. For at least this reason, it is submitted that there is no teaching or suggestion in the prior art to locate the writing area inboard of the bag perimeter as set forth in present Claim 12 and therefore Claims 12 (and dependent Claim 13) are not rendered obvious by the cited prior art. Further, there is no teaching or suggestion to define a pour spout with the first seal and writing area as set forth in Claim 13. For at least this reason, Claim 13 should be allowed. Reconsideration and allowance of Claims 8-13 and 19 are respectfully requested.

New Claims 20-26 are copied verbatim from U.S. Patent No. 6,328,082 issued December 11, 2001 to Danielle Lafond ("Lafond"). New Claims 20-26 correspond to claims 1-4, 18 and 25-26 of Lafond. In accordance with 37 C.F.R. § 1.607(a), the copied claims may be specifically applied to applicant's disclosure as follows:

Copied Claim	Applicant's Disclosure
<p>20. A disposable bag adapted to contain breast milk, comprising a flexible closed enclosure defining a chamber adapted to contain therein breast milk, said enclosure being permanently sealed except at one portion thereof which comprises a bag access adapted to substantially seal said bag in a first position thereof but also adapted to selectively allow in a second position thereof the breast milk to be introduced in said chamber when it is desired to use said bag, whereby once in said second position the breast milk can be received in said bag, wherein said bag comprises a section located remote from said enclosure and adapted for receiving thereon information about a content of said bag.</p>	<p>Title: page 1, lines 1-2</p> <p>Bag 30: page 5, lines 11-17</p> <p>Liquid containing portion 40: page 5, lines 20-22</p> <p>Opening: page 6, lines 11-12</p> <p>Joined sheets by releasable seal 36: page 5, lines 19-20</p> <p>Opening: page 6, lines 11-12</p> <p>Writing area 45: page 5, lines 25-26</p>
<p>21. A disposable bag as defined in claim 20, wherein said section comprises at least a first area for indicating thereon a date of filling of said enclosure with breast milk.</p>	<p>Writing area designating... "Date": page 5, line 29</p>
<p>22. A disposable bag as defined in claim 21, wherein said section also comprises a second area for indicating thereon a volume of breast milk introduced in said enclosure.</p>	<p>Writing area: page 5, line 25</p>

<p>23. A disposable bag as defined in claim 20, wherein said bag is made from a plastic tube permanently closed at a lower end thereof by a lower seal thereby delimiting a bottom end of said enclosure, said section extending from said lower seal away from said enclosure.</p>	<p>Tube: page 5, lines22-24 See FIGS. 1-5 See FIG. 5</p>
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<p>24. A disposable sterile plastic bag in combination with a bag holder, said bag being adapted to contain milk, said bag holder comprising a hollow body and a cap provided with a nipple and being adapted for feeding a baby, said bag holder being adapted for receiving therein said bag, said bag comprising a flexible closed enclosure defining a chamber adapted to contain milk therein, said enclosure being permanently sealed except at one portion thereof which comprises a bag access adapted to substantially seal said bag in a first position thereof but also adapted to selectively allow in a second position thereof the milk to be introduced in said chamber when it is desired to use said bag, wherein, once in said second position, a top end of said bag can be folded over an upper end of said bag holder with said cap being engageable to said upper end of said bag holder for imprisoning said top end of said bag between said cap and said upper end of said bag holder such that said bag hangs in said bag holder with milk being introduced in said bag at least one of before and after said bag is inserted in said bag holder and mounted thereto, wherein said bag comprises a section located remote from said enclosure and adapted for receiving thereon information about a content of said bag.</p>	<p>Title: page 1, lines 1-2</p> <p>See "--Count correspondence (b)" below</p> <p>See "--Count correspondence (b)" below</p> <p>See "--Count correspondence (b)" below</p> <p>Bag 30: page 5, lines 11-17</p> <p>Liquid containing portion 40: page 5, lines 20-22</p> <p>Opening: page 6, lines 11-12</p> <p>Joined sheets by releaseable seal 36: page 5, lines 19-20</p> <p>Opening: page 6, lines 11-12</p> <p>See FIGS. 1-5</p> <p>See "--Count correspondence (b)" below</p> <p>Writing area 45: page 5, lines 25-26</p>
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<p>25. A method of substantially sterilely handling breast milk, comprising the steps of:</p> <p>a) providing a closed disposable sterile bag comprising a tear off strip and providing a bag holder;</p> <p>b) removing said tear off strip to reveal a milk receiving chamber of said bag; and</p> <p>c) mounting said bag to said bag holder; wherein milk is introduced in said chamber between said steps b) and c) or after step c).</p>	<p>Title: page 1, lines 1-2</p> <p>See "--Count correspondence (a)" below</p> <p>See "--Count correspondence (b)" below</p> <p>See "--Count correspondence (a)" below</p> <p>See "--Count correspondence (b)" below</p>
<p>26. A method as defined in claim 25, wherein after step b), said bag is attached to a breast pumping device such that breast milk retrieved by said pumping device is directly delivered through into said bag.</p>	<p>In use, page 7, lines 9-12</p>

Pursuant to 37 C.F.R 1.67(a)(1), applicants "present" the following proposed count 1:

1. A disposable bag adapted to contain breast milk, comprising a flexible closed enclosure defining a chamber adapted to contain therein breast milk, said enclosure being permanently sealed except at one portion thereof which comprises a bag access adapted to substantially seal said bag in a first position thereof but also adapted to selectively allow in a second position thereof the breast milk to be introduced in said chamber when it is desired to use said bag, whereby once in said second position the breast milk can be received in said bag, wherein said bag comprises a section located remote from said enclosure and adapted for receiving thereon information about a content of said bag.

--Count correspondence

Applicants submit that the proposed count 1 corresponds exactly to the patentee's Claim 1 and applicant's claim 20.

Applicants submit that the proposed count 1 corresponds to the patentee's Claims 2-4 and applicant's Claims 21-23. Support for the limitations found in applicant's Claims 21-23 is found in the specification and drawings of the present invention as set forth in the above table.

Applicants submit that the proposed count 1 corresponds substantially to the patentee's Claims 18, 25 and 26 and applicant's Claims 24, 25 and 26. It is submitted that the limitations referred to and discussed below in sections (a) and (b) and found in applicant's new Claims 24, 25 and 26 are trivially obvious in view of the subject matter disclosed and claimed herein and accordingly, are obvious under 35 C.F.R. § 103. For this reason, support for these limitations in Claims 24, 25 and 26, while not specifically found in applicant's disclosure, is widely available and would be obvious to one with skill in the art to apply to the claims.

(a) The elements of the claims identified in (a) directed to a detachable strip and associated particulars, such as a tear off strip, removal of the tear off strip, removal of the closure member from the bag, a tear off line, lateral pull tab, adhesive tape, metal wire, longitudinal ends, and a detachable strip are squarely in the prior art. It is submitted that the specifics of the closure member are not critical to the present invention. Closure members as recited herein have been widely available and applied to plastic collecting bags and thus, is an obvious application to the inventive disposable milk collecting bags of the present invention.

(b) The elements of the claims recited are directed to a baby bottle. All of the features identified in (b) are squarely in the prior art. Disposable plastic bags have been used with baby bottles including a bag holder, nipple and threaded cap for decades. Accordingly, it is obvious to use the inventive plastic bag with a baby bottle.

The newly presented Claims 20-26 are patentable to Silver et al., since the subject application was filed on February 28, 1994, which is more than six years before the March 7, 2000 filing date of U.S. Patent 6,328,082, and moreover, claims priority from U.S. Application No. 07/809,921, filed December 6, 1991, providing the benefit of an effective filing date of more than eight years before the March 7, 2000 filing date of U.S. Patent 6,328,082. Accordingly, no declarations are required under 37 C.F.R. 1.608(b).

Applicants make no admission, explicitly or by implication, that any of the Lafond claims not copied herein (as patentable to Silver et al.) are patentable to Lafond.

Attached hereto is a marked-up version of the changes made to the claims by the present amendment. The attached page is captioned "Version with markings to show changes made"

Respectfully submitted,

June 5, 2002

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Version with markings to show changes made

Please enter the following Amendments:

Please cancel Claim 6, without prejudice.

Please add the following new claims:

20. (New) A disposable bag adapted to contain breast milk, comprising a flexible closed enclosure defining a chamber adapted to contain therein breast milk, said enclosure being permanently sealed except at one portion thereof which comprises a bag access adapted to substantially seal said bag in a first position thereof but also adapted to selectively allow in a second position thereof the breast milk to be introduced in said chamber when it is desired to use said bag, whereby once in said second position the breast milk can be received in said bag, wherein said bag comprises a section located remote from said enclosure and adapted for receiving thereon information about a content of said bag.

21. (New) A disposable bag as defined in claim 20, wherein said section comprises at least a first area for indicating thereon a date of filling of said enclosure with breast milk.

22. (New) A disposable bag as defined in claim 21, wherein said section also comprises a second area for indicating thereon a volume of breast milk introduced in said enclosure.

23. (New) A disposable bag as defined in claim 20, wherein said bag is made from a plastic tube permanently closed at a lower end thereof by a lower seal thereby delimiting a bottom end of said enclosure, said section extending from said lower seal away from said enclosure.

24. (New) A disposable sterile plastic bag in combination with a bag holder, said bag being adapted to contain milk, said bag holder comprising a hollow body and a cap provided with a nipple and being adapted for feeding a baby, said bag holder being adapted for receiving therein said bag, said bag comprising a flexible closed enclosure defining a chamber adapted to contain milk therein, said enclosure being permanently sealed except at one portion thereof which comprises a bag access adapted to substantially seal said bag in a first position thereof but also adapted to selectively allow in a second position thereof the milk to be introduced in said chamber when it is desired to use said bag, wherein, once in said second position, a top end of said bag can be folded over an upper end of said bag holder with said cap being engageable to said upper end of said bag holder for imprisoning said top end of said bag between said cap and said upper end of said bag holder such that said bag hangs in said bag holder with milk being introduced in said bag at least one of before and after said bag is inserted in said bag holder and mounted thereto, wherein said bag comprises a section located remote from said enclosure and adapted for receiving thereon information about a content of said bag.

25. (New) A method of substantially sterile handling breast milk, comprising the steps of:

- a) providing a closed disposable sterile bag comprising a tear off strip and providing a bag holder;
- b) removing said tear off strip to reveal a milk receiving chamber of said bag; and
- c) mounting said bag to said bag holder; wherein milk is introduced in said chamber between said steps b) and c) or after step c).

26. (New) A method as defined in claim 25, wherein after step b), said bag is attached to a breast pumping device such that breast milk retrieved by said pumping device is directly delivered through into said bag.